

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MARK EDWARD WAYT,	)	
	)	
Petitioner,	)	4:06CV3134
	)	
v.	)	
	)	
ROBERT HOUSTON, Director of	)	MEMORANDUM AND ORDER
the Nebraska Department of	)	
Correctional Services,	)	
	)	
Respondent.	)	

This matter is before the court on its own motion. On January 17, 2007 this court granted Petitioner an extension of time to file a brief in response to Respondent's brief on the merits. (Filing No. 15.) In that order, Petitioner was instructed that if he did not file a responsive brief by June of 2007 he shall file with the court a status report estimating the amount of time he needs to prepare his brief. Petitioner has not filed a responsive brief, nor has he filed with the court the requested status report. On August 22, 2007, Respondent filed a motion to dismiss based on Petitioner's failure to file the status report and arguing that this case is moot. (Filing No. 19.) However, Respondent's motion to dismiss was not accompanied by a brief as required under the local rules. *See* NECivR 7.1(a)(1).

Because Petitioner was not given a deadline by which to file his responsive brief in the court's previous order, the court sets the following schedule progressing the case.

IT IS THEREFORE ORDERED that:

1. By February 4, 2008, Petitioner shall file a brief in response to Respondent's brief on the merits. **Petitioner is warned that failure to file his brief by the February 4, 2008 deadline may result in the dismissal of this action.**

2. Respondent shall have 30 days after Petitioner files his brief to file a reply brief.

3. The Clerk of the court is instructed to strike Respondent's motion to dismiss (filing no. 19) from the record.

4. The Clerk of the court is instructed to set a pro se case management deadline using the following language: "February 4, 2008: Petitioner's brief in response to Respondent's brief on the merits is due."

January 2, 2008.

BY THE COURT:

*s/Richard G. Kopf*  
United States District Judge